

Mailed September 27, 2002

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Annual Reports for the Year Ended December 31, 2001, Filed by
Incumbent Local Exchange Carriers on a Confidential Basis

RE: PSC Control Nos. 20055, 20056, 20058, 20060, 20063, and 20064

CONFIDENTIALITY DETERMINATION

On April 1 and 30, 2002, Verizon North Inc.-Illinois Operations ("Verizon-IL") (utility 1340) submitted written applications seeking confidential treatment of certain information in its 2001 incumbent local exchange carrier ("ILEC") annual report. The information is filed under document PSC control numbers 20055, 20056, 20060, and 20064.¹

On April 30, 2002, Verizon North Inc.-Wisconsin Operations ("Verizon-WT") (utility 2180) submitted written applications seeking confidential treatment of certain information in its 2001 ILEC annual report. The information is filed under document PSC control numbers 20058 and 20063.²

In particular, both companies seek confidential treatment for lines 17, 24, 25, 26, and 27 on page 52; for lines 15 and 18 on page 53; and for lines 15, 16, and 17 on page 55 of their respective 2001 ILEC annual reports. For the reasons stated herein, confidential treatment for the above specifically identified data is denied.

¹ Confidentiality Request Nos. 20055 and 20056 (April 1, 2002) and 20060 and 20064 (April 30, 2002).

² Confidentiality Request Nos. 20058 and 20063 (April 30, 2002). Confidentiality Request Nos. 20053 and 20054 (April 1, 2002) were subsequently destroyed at the company's request, replaced by the April 30, 2002 filings.

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The Public Service Commission ("Commission") has the authority to compel the submittal of this information pursuant to Wis. Stat. § 196.02. This confidentiality determination is made pursuant to Wis. Admin. Code § PSC 2.12, and the Commission's November 21, 2000, Order delegating responsibilities for confidential determinations to Division Administrators and/or to the Administrative Law Judge.

Background

On May 18, 2001, the Commission issued a Confidentiality Determination concerning the 2000 ILEC annual report filings. In its consolidated confidentiality determination dated February 5, 2002, the Commission found it reasonable to apply those findings of its Confidentiality Determination to 2001 annual report filings. The Commission also found it reasonable to dispense with the administrative burden of requiring that Confidentiality Request forms and notarized affidavits accompany the filing of the annual reports.

Both Verizon-IL and Verizon-WI are ILECs which are required to file an ILEC annual report with the Commission. The statutory filing date for the ILEC annual report covering 2001 calendar year operations was April 1, 2002; 84 ILECs were required to file this report for the 2001 calendar year.

For the 2001 ILEC annual report program, which was released on January 29, 2002, the Commission implemented a paperless filing process, discontinuing the requirement for an ILEC to file a completed Confidentiality Request form and notarized affidavit. The 2001 ILEC program contained padlocks allowing users to file selected information on a confidential basis by locking the padlock next to the protected data. However, padlocks were only provided for information eligible for provisional confidential treatment as set forth in the Commission's

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May 18, 2001, Confidentiality Determination, as supplemented by an item initially requested in the 2001 program, generic Digital Subscriber Line (“xDSL”) lines in use, in the Central Office Data-End of Year schedule. All 2001 ILEC annual report filings were to be accomplished via e-mail, with an encrypted, zipped attachment containing the exported 2001 annual report information, together with an export status report, edit check listing, and listing of schedules with confidential locks.

Discussion

On April 1 and 30, 2002, Verizon-IL manually filed its 2001 ILEC annual report, requesting confidential treatment of certain exchange-specific information contained in the Service Data-End of Year schedule on pp. 52-53 and certain central office-specific information shown on the Central Office Data-End of Year schedule on p. 55, over and above that provided for in the 2001 ILEC annual report program. Verizon-WI also manually filed its 2001 ILEC annual report on April 30, 2002, requesting confidential treatment of the same exchange and central office-specific information. Both companies’ filings contained confidential hard copy pages, a confidential diskette containing annual report program files, and a complete public version of the 2001 report, the latter which is currently available on the Commission’s web page.

In both companies’ notarized affidavits accompanying the filings, each references the Commission’s earlier February 5, 2002, confidentiality determination, but also seeks confidential treatment under Wis. Stat. § 196.14 for additional exchange-specific information in the Service Data-End of Year schedule on pp. 52-53. In particular, confidential status is requested for lines 17 (Total Business Lines), 24 (Total Residential Lines), 25 (Total Bus & Res Lines), 26 (Company Used Lines), and 27 (Total Lines Used) on page 52, and lines 15 (EAS-Trunks)

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and 18 (Video Distance Learning-discounted (special tariff)) on page 53. Both Verizon-IL and Verizon-WI (collectively the “Verizon ILECs”) also requested confidential status for additional central office-specific information reported on lines 15 (Access Lines-In Use), 16 (Access Lines-Equipped), and 17 (Access Lines-Wired) on page 55.

Both companies note that a limited number of people currently have knowledge of the requested confidential information, stating that absence of confidential handling by the Commission would significantly increase that number. The companies also claim that the value of the information to the possessor or a competitor is substantial, in that it would allow a competitor to create a strategic business plan for market entry targeted to certain services, exchange (and central office) areas and customer groups. Another reason cited by the companies for confidential treatment is that they must fulfill contractual and other legal obligations with respect to maintaining the confidentiality of wholesale customer information, which may be contained in access line data at the exchange or central office level of detail on pp. 52-53 and 55, respectively.

The companies advance the argument that knowledge of retail lines at the exchange (or central office) level in these companies’ annual reports could translate into information concerning the number of resold lines that a competitor has in a particular exchange (or central office). Finally, the companies state that requiring them to disclose this information, but not its competitors, places the companies at a competitive disadvantage.

In issuing its February 5, 2002, consolidated confidentiality determination applying to all ILECs, the Commission balanced the concerns of the parties submitting confidential commercial or financial information and that of the interest of the public in accessing that information. This

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careful balancing of competing interests affects both the competitive nature of the telecommunications industry and the performance of the Commission's public responsibilities. As the telecommunications industry becomes increasingly competitive, companies increasingly assert that the information they provide to the Commission is competitively sensitive.

The Verizon ILECs assert that the information provided, if released, would aid a competitor. However, it is difficult to reconcile confidential treatment of annual reports for these two companies with annual reports of the other 82 ILECs that have not sought the same, including Wisconsin Bell, Inc., the largest ILEC in Wisconsin.

Confidential treatment of information in the Verizon ILECs' 2001 annual reports in addition to that granted in the Commission's February 5, 2002, determination is **denied**.

The Commission reiterates the provisions and reasoning contained in its February 5, 2002, confidentiality determination concerning the 2001 ILEC annual report, in which it granted provisional confidential treatment to selected information in the to-be-filed 2001 ILEC annual reports. Confidential treatment for this information was granted because this information would aid a competitor of a public utility.³ See Wis. Stat. § 196.14.

The Commission is not persuaded that the additional exchange and central office-specific information cited by the Verizon ILECs in their April 2002, filings warrant supplementation of the items granted provisional confidential treatment in the February 5, 2002, confidentiality determination. The Verizon ILECs have failed to provide any specific, convincing evidence, beyond mere allegation, that disclosure of the information at issue truly enables competitors to harm their respective businesses or violates the Verizon ILECs' contractual or other legal obligations to wholesale customers. The Commission does not believe that exchange-specific

³ This determination does not address the issue of trade secrets under Wis. Stat. § 134.90(1)(c).

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total business lines, total residential lines, total business (“bus”) and residential (“res”) lines, company used lines, total lines used, extended area service (“EAS”)-trunks, and video distance learning-discounted (special tariff) end of year information is specific enough to allow competitors to target marketing plans to certain services, exchange (and central office) areas, and customer groups, as claimed by the Verizon ILECs. Likewise, the Commission does not believe that the number of central office-specific access lines in use, equipped, and wired at end of year will significantly assist competitors in tailoring marketing ventures.⁴ Finally, the Commission is not convinced that release of the exchange and central office-specific information at issue will violate the Verizon ILECs’ obligations, contractual or otherwise, to wholesale customers as posited in the affidavits.

Pursuant to its jurisdiction under Wis. Stat. §§ 196.02(1), 196.14, and other provisions of Wis. Stat. ch. 196 and Wis. Stat. §§ 19.32-.39, as may be pertinent hereto, the Commission denies confidential treatment to the Verizon ILECs’ 2001 annual report schedules and associated information above that already granted other ILECs in the Commission’s February 5, 2002, confidentiality determination.

This confidentiality determination is not a final determination under the Public Records law; it is the Commission’s decision for purposes of managing its files. This confidentiality determination does not prejudice the right of any person to submit a public records request to inspect the contents of the filings subject to this determination.

⁴ Additionally, the Commission notes that access line in use, equipped and wired end of year information at issue on the Central Office Data-End of Year schedule was similarly disallowed confidential treatment in its March 14, 2002, confidentiality determination concerning the 2001 Alternative Telecommunications Utility-Other Telecommunications Provider (OTH) annual reports filed by competitive local exchange carriers and video distance learning providers. The Commission is currently addressing requests from 11 OTH entities for confidential status for additional items contained in such annual report.

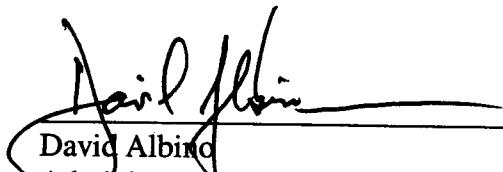
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The information for which confidential treatment is denied shall be open to public scrutiny 40 days after the issuance of this Order. Verizon-IL and Verizon-WI shall provide the Commission with revised confidential hard copy pages (together with a new confidentiality request form and notarized affidavit) and a revised complete public version complying with this determination no later than three business days before the public disclosure date.⁵ Absent such filings, the Commission will proceed to make available revised public versions based on this confidentiality determination.

This order is effective upon mailing.

Dated at Madison, Wisconsin, 27 September 2002

For the Commission:



David Albino
Administrator
Telecommunications Division

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⁵ In the alternative, either (or both) company(ies) may elect to satisfy these requirements by electronically re-filing its 2001 annual report using the electronic filing capabilities contained in the 2001 ILEC annual report program.